
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

STANLEY PRUITT,

Petitioner,

versus

MARK MARTIN,

Respondent.

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CIVIL ACTION NO. 1:11-CV-563

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Stanley Pruitt, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends that the petition be denied.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections.

Petitioner challenges a prison disciplinary conviction for possessing a cell phone. For the reasons set forth by the magistrate judge, there was “some evidence” to support the finding of guilty based upon a theory of constructive possession. Further, petitioner has not demonstrated he suffered any prejudice because a photograph of the cell phone, rather than the cell phone itself, was admitted into evidence at the disciplinary hearing.

Finally, petitioner states officials failed to follow prison regulations in writing the incident report that charged him with a disciplinary offense. Even if petitioner is correct, this allegation

does not entitle him to relief. Failure to follow prison regulations, standing alone, does not constitute a violation of a petitioner's due process rights. *Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994). "A prison official's failure to follow the prison's own policies, procedures or regulations does not constitute a violation of due process, if constitutional minima are nevertheless met." *Myers v. Klevenhagen*, 97 F.3d 91, 94 (5th Cir. 1996). In *Wolff v. McDonnell*, 418 U.S. 539 (1974), the Supreme Court established the process due an inmate charged with violating prison rules. As petitioner has not established he was denied any of the procedural protections established in *Wolff*, he is not entitled to relief.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered denying the petition in accordance with the recommendation of the magistrate judge.

SIGNED at Beaumont, Texas, this 21st day of November, 2013.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE